

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

TOM CURTIS DOWDY,

Plaintiff,
v.

DODGE CORR. INST.,

Defendant.

OPINION and ORDER

24-cv-198-jdp

Plaintiff Tom Curtis Dowdy, proceeding without counsel, alleged that he improperly received a custody classification of maximum. Dkt. 1. I dismissed Dowdy's complaint for failure to state a claim upon which relief may be granted. Dkt. 5. I gave Dowdy until May 28, 2024, to amend the complaint to fix that problem, and I cautioned him that I would dismiss the case if he failed to comply with that order. Dowdy didn't file an amended complaint. Nor did Dowdy seek an extension of time to file an amended complaint or otherwise try to explain his failure to comply with my order. I will dismiss the complaint for failure to state a claim upon which relief may be granted for the reasons in my order, and I will direct the clerk to record a strike against Dowdy under 28 U.S.C. § 1915(g). *See Paul v. Marberry*, 658 F.3d 702, 705 (7th Cir. 2011) ("[W]hen . . . the plaintiff is told to amend his . . . complaint and fails to do so, the proper ground of dismissal is not want of prosecution but failure to state a claim, one of the grounds in section 1915(g) for calling a strike against a prisoner plaintiff."). Dowdy is advised that this is his second strike under § 1915(g), and that the imposition of a third strike will bar him from proceeding without prepaying the filing fee in district court or the court of appeals unless he is under imminent danger of serious physical injury.

ORDER

IT IS ORDERED that:

1. Plaintiff Tom Curtis Dowdy's complaint, Dkt. 1, is DISMISSED with prejudice for failure to state a claim upon which relief may be granted.
2. The clerk is directed to record a strike against plaintiff under 28 U.S.C. § 1915(g).
3. The clerk is directed to enter judgment and send plaintiff copies of this order and the judgment.

Entered August 9, 2024.

BY THE COURT:

/s/

JAMES D. PETERSON
District Judge